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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/529,738

03/30/2005

Yasuyuki Mizuno

511.44961X00

1963

20457 7590 01/16/2009
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EXAMINER

SELLERS, ROBERT E

ART UNIT

PAPER NUMBER

1796

MAIL DATE

DELIVERY MODE

01/16/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/529,738	Applicant(s) MIZUNO ET AL.	
	Examiner ROBERT SELLERS	Art Unit 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-87 is/are pending in the application.
- 4a) Of the above claim(s) 1-9, 11-49 and 56-86 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10, 50-55 and 87 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 1796

1. This is responsive to the response after Final rejection filed January 9, 2009 challenging the effective date of Mizuno et al. Patent No. 7,157,506. The finality of the Final rejection mailed October 9, 2008 is withdrawn in view of the following 35 U.S.C. 103(a) rejection based on PCT Publication No. WO 01/70885 having an earlier publication date than the patent date of Mizuno et al.

Claims 1-9, 11-16, 18-30, 32-43, 45-49, 56-59, 66-69, 76-79 and 81-86 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to non-elected inventions, there being no allowable generic or linking claim.

Claims 17, 31, 44, 60-65, 70-75 and 80 are withdrawn as directed to non-elected species. The election was made **without** traverse in the reply filed on November 13, 2007.

The text of section 103(a) of Title 35, U.S. Code not included in this action can be found in the non-Final rejection mailed December 10, 2007.

Claims 10, 50-55 and 87 are rejected under 35 U.S.C. 103(a) as being unpatentable over PCT Publication No. WO 01/70885 as represented by Mizuno et al. Patent No. 7,157,506.

2. The PCT publication is the Japanese equivalent of Mizuno et al. as corroborated by Derwent accession no. 2002-097284. The publication date of the PCT application is September 27, 2001 which antedates the filing date of September 30, 2002 for the certified English translations of the Japanese priority applications filed April 10, 2008. The rejection is based on the same reasoning predicated upon the teachings of the equivalent U.S. patent to Mizuno et al. discussed in the previous Office actions.

(571) 272-1093 (Fax No. (571)-273-8300)
Monday to Friday, 9:30 to 6:00

/Robert Sellers/
Primary Examiner
Division 1796

rs
1/14/2009